



# OFFICE OF THE STATE FIRE MARSHAL

## ABOVEGROUND PETROLEUM STORAGE ACT (APSA) ADVISORY COMMITTEE

### DRAFT MEETING MINUTES

**Monday, July 31, 2023**

**9:00 AM to 5:00 PM**

CAL FIRE – Office of the State Fire Marshal

710 Riverpoint Ct., Suite 150, Conference 101, West Sacramento, CA 95605

**Note:** This meeting was held in-person and via teleconference.

#### **Staff Present:**

Jim Hosler, Assistant Deputy Director

Jennifer Lorenzo, Senior Environmental Scientist (Supervisor), Committee Chair

Mary Wren-Wilson, Environmental Scientist

Denise Villanueva, Environmental Scientist

Eireann Flannery, Regulatory Analyst

#### **Members Present:**

Aleasha Enciso,\* Los Angeles City Fire Department

Craig Fletcher, Fletcher Consultants, Inc.

Dante Wiley, Northern California Fire Prevention Officers (FPO)

Devra Lewis, Bay Area Region Certified Unified Program Agency (CUPA)

Eloy Luna, Southern Region CUPA

Eric Scott,\* Santa Fe Springs Fire Department

Jeremy Gates, Southern California Edison

Kevin Buchan, Western States Petroleum Association

Michael Chilberto,\* Oil Changers

Mike Huber, U.S. Department of Defense (DoD) Liaison

Paul McCarty, Northern Region CUPA

Peter Ansel, California Farm Bureau

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**Members Present (continued):**

Veronica Badillo,\* U.S. DoD Liaison

**Subject Matter Experts:**

Janice Witul, U.S. Environmental Protection Agency (US EPA)

John Paine, California Environmental Protection Agency (CalEPA)

**Guests Present:**

Joe Mentzer, Steel Tank Institute (STI)/Steel Plate Fabricators Association (SPFA)

Robin Ward, Santa Clara County CUPA

Ian Broeski, Santa Rosa City CUPA

Daniel Yniguez, Los Angeles County CUPA

Nolan Leal, Boeing

**Members Absent:**

Chris Reardon,\* California Farm Bureau

Christina Graulau,\* US DoD Liaison

Greg Matas, Donlee Pump Company

Jason Rizzi,\* Northern California FPO

Lori Luces-Nakagawa,\* Pacific Gas and Electric (PG&E)

Mark Taylor, Mossier Bros.

Peter Reich, US EPA

Stacy Miner,\* Walmart

Yama Noorzai, Central Region CUPA

\* Alternate member

**I. CALL TO ORDER**

A. Committee Chair, Jennifer Lorenzo, called the meeting to order at 9:15 a.m. and welcomed everyone to the meeting.

B. Attendees and guests introduced themselves. Ms. Mary Wren-Wilson conducted the roll call of voting members and determined a quorum was not present.

C. Approval of minutes from previous meetings

D. No meeting minutes were reviewed. Also, since there was no quorum present in today's meeting, there will be no voting by members.

E. Announcements

None

## II. APSA PROGRAM UPDATES

### A. Regulations

The committee reviewed the following documents, which are available on the website at <https://osfm.fire.ca.gov/boards-committees/aboveground-petroleum-storage-act-apsa-advisory-committee/> under the 'July 2023 – Meeting':

- “Std. 399 – Economic and Fiscal Impact Statement Form”,
- “Draft APSA Regulations” (Draft Regulations), and
- “Draft APSA Regulations ISOR” (ISOR).

#### 1) Std. 399 – Economic and Fiscal Impact Statement Form

The committee completed the Std. 399 form as follows.

##### A. Estimated Private Sector Cost Impacts

1. Impacts business and/or employees and imposes reporting requirements.
2. The estimated cost for current draft regulations has not yet been calculated. Under the previous draft regulations, the cost was estimated to be below \$10 million.
3. The total number of businesses impacted will be determined using California Environmental Reporting System (CERS) database. Types of businesses impacted will be those with tank facilities as defined in Health and Safety Code, Section 25270.2. It is unknown how many or what percentage of the total businesses impacted are small businesses.
4. No businesses will be created or eliminated. It is anticipated that the impact of these regulations would be absorbable for businesses.
5. Geographic extent of impacts would be Statewide.
6. No jobs will be created or eliminated. It is anticipated that the impact of these regulations would be absorbable to businesses and would therefore not impact jobs or occupations.
7. This regulation will not affect the ability of California businesses to compete with other states by making it more costly. While the regulations make some requirements explicit or clearer; however, each of these requirements are currently necessary for compliance with the APSA program. In addition, it is anticipated that that the increased clarity will improve efficiency to the level of producing savings.

B. Estimated Costs

1. There are no anticipated initial or ongoing costs that members were aware of at this time (a. through d.). [OSFM staff to revisit this section.]
2. No anticipated costs for each industry to be shared at this time. [OSFM staff to revisit this section.]
3. There is no additional annual cost incurred for a typical business.
4. There is no impact to housing costs.
5. There are comparable Federal regulations. These regulations align and clarify roles and responsibilities within the State Unified Program and Federal requirements. Also, there are no additional costs due to State and Federal differences.

C. Estimated Benefits

1. The regulations align and clarify the role of enforcement and inspection entities within the Unified Program, such as which entity performs specific inspections or adds explicit definitions and assists enforcement staff.
2. Benefits are a result of specific statutory requirements and developed goals by enhancing public safety and protects California's environment by reducing risk of future petroleum releases.
3. Total benefits statewide in terms of dollars are unknown.
4. Expansion of businesses currently doing business in CA is not applicable.

D. Alternatives to the Regulation

1. The regulation clarifies existing law; no new requirements are created; therefore, alternatives may not be aligned with current legal requirements or may incur additional burden. Without electronic reporting requirement, the regulated community would submit more information on paper in a longer format.
2. Summary of statewide costs and benefits from this regulation and each alternative considered is unknown, cost of \$0, or not applicable.
3. Cost of using paper form would be considered absorbable by existing businesses.
4. Performance standards were considered to lower compliance costs. All of the standards in the regulations are performance standards.

E. Major Regulations

1. Estimated costs of the regulation would not exceed \$10 million.

F. Fiscal Effect on Local Government

1. Additional expenditures in current fiscal year which are reimbursable by the State is \$0.
2. Additional expenditures in current fiscal year which are not reimbursable by the State is \$0.
3. No additional costs or savings.
4. No fiscal impact exists.

2) Draft Regulations and ISOR

Edits were made to the Draft Regulations and ISOR to reflect a more detailed justification of the answers provided on the Std. 399 form. Suggested new text is underlined and italicized, while deleted text have a strikethrough.

UPA [Unified Program Agency] Inspections – Facilities with less than 10,000 gallons that are required to prepare an SPCC Plan – Draft Regulations:

(a) The Unified Program Agency may inspect tank facilities with a petroleum storage capacity of less than 10,000 gallons at least once every 3 years, to ensure compliance with these regulations.

~~The primary purpose of the inspection is to determine whether the owner or operator is in compliance with the SPCC Plan, Health and Safety Code Chapter 6.67, and these regulations.~~

*Tank facilities shall be prioritized for inspections based on one or more of the following conditions:*

- 1. A facility that has not had a routine inspection under APSA by the UPA.*
- 2. Facilities with the most time elapsed between APSA routine inspections.*
- 3. Threat to waters of the state.*

(b) For tank facilities that are not inspected per subsection (a), the UPA shall develop an alternative inspection and compliance plan, subject to approval by the Secretary for Environmental Protection and the Office of the State Fire Marshal.

UPA inspections of facilities that are conditionally exempt from preparing an SPCC Plan – Draft Regulations:

(a) The Unified Program Agency may inspect tank facilities that meet the conditions as described in Health and Safety Code Section 25270.4.5(b) at least once every three years.

~~Those tank facilities which ..... should be prioritized for inspections.~~

Tank facilities ~~should~~ shall be prioritized for inspections based on one or more of the following conditions:

1. ~~Most delinquent~~ A facility that has not had a routine inspection under APSA by the UPA.
2. ~~Large volumes of petroleum.~~ Facilities with the most time elapsed between APSA routine inspections.
3. ~~The proximity of facility to navigable water.~~ Threat to waters of the state.

~~The primary purpose of the inspection is to determine whether the owner or operator continues to meet the conditions as described in Health and Safety Code Section 25270.4.5(b).~~

(b) For tank facilities that are not inspected per subsection (a), the UPA shall develop an alternative inspection and compliance plan, subject to approval by the Secretary for Environmental Protection and the Office of the State Fire Marshal.

(c) The primary purpose of the inspection is to determine whether the owner or operator continues to meet the conditions as described in Health and Safety Code Section 25270.4.5(b).

#### Non-Compliant Tanks – Draft Regulations:

The section header “Non-Compliant Tanks” was retracted. No section header was suggested by the committee. All text for this section was removed.

~~A non-compliant .....~~

~~Tanks must be listed for their intended use .....~~

~~(a) A non-compliant aboveground storage tank does not meet the requirements of an SPCC Plan or these regulations. Use of a non-compliant aboveground storage tank shall not be classified as a minor violation.~~

~~(b) The following types of storage tanks shall not be used as Aboveground Storage Tanks, as defined.~~

~~(3) A rail car, tank car, or tank vehicle, that is designed and fabricated for transportation instead of fixed use or stationary installation.~~

~~(3) A rail car, tank car, or tank vehicle, that is designed and fabricated for transportation instead of fixed use or stationary installation.~~

~~(d) Stationary Aboveground Storage Tanks shall have functional emergency vent with adequate relief vent capacity.~~

~~(e) The exception to subsection (d) is as follows: Tanks having a capacity of more than 12,000 gallons that are not within the diked area or the drainage path of Class I or II liquids do not require emergency venting. Liquids classified as Class I, Class II, and Class IIIB are defined in the California Code of Regulations, Title 24, Part 9, Section 202.~~

The following are suggested new text.

(a) Violations of this section shall not be classified as a minor violation.

(b) A tank designed or intended for underground use, or any tank used for that purpose, shall not be used as an AST [aboveground storage tank] as defined in Health and Safety Code Chapter 6.67. For the purpose of this regulation, underground use means placement in an excavation surrounded by backfill material and buried.

(c) A tank such as a railcar, tank car, tank vehicle, or other tank intended or designed solely for transportation related use shall not be used as a stationary tank. This does not include transportation tanks within a facility for mobile operations or permitted through the local authority having jurisdiction.

Non-Compliant Tanks – ISOR:

Suggested edits were made to the following sections only.

(3) Health and Safety Code Section Number 25292.05, SB 445 (Hill, Chapter 547, Statutes of 2014), requires that some types of Underground Storage Tanks are retired from use by December 31, 2025. It is anticipated that upon removal, ~~many of these~~ there is the potential for Underground Storage Tanks will to be offered for sale as Aboveground Storage Tanks.

(4) Address railcars. [OSFM to revisit this section.]

### III. NEW BUSINESS

- A. The Committee Chair provided an update on the progress of revising the online APSA Basic Inspector Training course. Eight modules or chapters have been submitted to the vendor for revision, with a goal to update 13 modules or chapters by the end of this year.

### IV. MEMBERS ORGANIZATION UPDATES

- A. CUPAs
  - Bay Area Region: None
  - Northern Region: None

Central Region: None  
Southern Region: None

- B. FPO and Other Fire Districts/Departments: None
- C. US EPA: None
- D. STI/SPFA: The revisions of the SP001 and SP031 standards continue.
- E. APSA Technical Advisory Group: Next meeting has yet to be determined.
- F. Regulated Community and Industry: None

**V. OPEN FORUM AND PUBLIC COMMENT**

No discussion or public comments.

**VI. SCHEDULE NEXT MEETING AND ADJOURN**

The Committee Chair requested to adjourn the meeting. Devra Lewis motioned to adjourn the meeting and Jeremy Gates second the motion. All other committee members that were present were in favor and none opposed.

The meeting was adjourned by the Committee Chair at 4:15 p.m.